

are so received or accrued by such foreign corporation; and

(iii) Gain from the sale or exchange of stock or obligations of other foreign corporations which are less developed country corporations within the meaning of this paragraph and 10 percent or more of the total combined voting power of all classes of stock of which is owned by such foreign corporation immediately before such sale or exchange; and

(2) Which has 80 percent or more in value (within the meaning of paragraph (d) of this section) of its assets on each day of the taxable year consisting of—

(i) Assets used, or held for use, for the production of income described in subparagraph (1) of this paragraph, or in connection with the production of such income, whether or not such income is received during the taxable year, and

(ii) Property described in section 956(b)(2).

In the absence of affirmative evidence showing that the 80-percent requirement of this subparagraph has not been satisfied on each day of the taxable year such requirement will be considered satisfied if it is established to the satisfaction of the district director that such requirement has been satisfied on the last day of each quarter of the taxable year of the foreign corporation. The provisions of this subparagraph may be illustrated by the following example:

*Example.* Foreign corporation A is formed on November 1, 1963, for the purpose of constructing and operating a vessel and, on that date, enters a charter agreement which provides that such vessel will be registered under the laws of Liberia, a less developed country as of November 1, 1963, and operated between South American and European ports. Corporation A uses the calendar year as a taxable year. Construction of the vessel is completed on September 1, 1965, and the vessel is registered under the laws of Liberia and operated between South American and European ports through December 31, 1965, and thereafter. The charter and the vessel (while under construction and after completion), or any interest of A Corporation in such assets, will be considered assets which are held by A Corporation during its taxable years ending on December 31, 1963, 1964, and 1965, for use in the production of income described in subparagraph (1) of this paragraph.

(c) *Determination of stock ownership.* In determining for purposes of paragraph (b)(1)(ii) and (iii) of this section whether a foreign corporation owns 10 percent or more of the total combined voting power of all classes of stock of a less developed country corporation, only stock owned directly by such foreign corporation shall be taken into account and the provisions of section 958 and the regulations thereunder shall not apply. See section 958(a)(1).

(d) *Determination of value.* For purposes of paragraphs (a)(1)(iii) and (b)(2) of this section—

(1) *General.* Except as provided in subparagraph (2) of this paragraph, the value at which property shall be taken into account is its actual value (not reduced by liabilities) which, in the absence of affirmative evidence to the contrary, shall be deemed to be its adjusted basis.

(2) *Treatment of certain receivables.* The value at which receivables described in paragraph (a)(2)(i) of this section and held by a foreign corporation using the cash receipts and disbursements method of accounting shall be taken into account is their actual value (not reduced by liabilities) which, in the absence of affirmative evidence to the contrary, shall be deemed to be their face value.

[T.D. 6683, 28 FR 11182, Oct. 18, 1963]

**§ 1.955-6 Gross income from sources within less developed countries.**

(a) *General.* For purposes of paragraph (a)(1)(ii) of § 1.955-5, the determination whether a foreign corporation has derived 80 percent or more of its gross income from sources within less developed countries for any taxable year shall be made by the application of the provisions of sections 861 through 864, and §§ 1.861-1 through 1.863-5, in application of which the name of a less developed country shall be substituted for “the United States”, except that if income is derived by the foreign corporation from—

(1) Interest (other than interest to which subparagraph (3) of this paragraph applies), the rules set forth in paragraph (b) of this section shall apply;

(2) Dividends, the rules set forth in paragraph (c) of this section shall apply; or

(3) Income (including interest) derived in connection with the sale of tangible personal property, the rules set forth in paragraph (d) of this section shall apply.

The source of income described in subparagraph (1), (2), or (3) of this paragraph shall be determined solely under the rules of this section and without regard to the rules of sections 861 through 864, and the regulations thereunder.

(b) *Interest*—(1) *In general.* Except as provided in subparagraph (2) of this paragraph and paragraph (d) of this section, gross income derived by the foreign corporation from interest on any indebtedness—

(i) Of an individual shall be treated as income from sources within a less developed country if, but only if, such individual is a resident of one or more less developed countries and of no other country which is not a less developed country.

(ii) Of a corporation shall be treated as income from sources within less developed countries if, but only if, 80 percent or more of the gross income of the payer corporation for the 3-year period ending with the close of its annual accounting period in which such interest is paid, or for such part of such 3-year period as such corporation has been in existence, or for such part of such 3-year period as occurs on and after the beginning of such corporation's first annual accounting period beginning after December 31, 1962, whichever period is shortest, was derived from sources within less developed countries as determined in accordance with the principles of this section; or

(iii) Of a less developed country, including obligations issued or guaranteed by the government of such country or of a political subdivision thereof and obligations of any agency or instrumentality of such country, in which such country is financially committed shall be treated as income from sources within such country.

(2) *Special rule.* Gross income derived by the foreign corporation from interest on obligations of the United States shall be treated as income from sources

within less developed countries without regard to the provisions of subparagraph (1) of this paragraph.

(3) *Payers other than related persons.* For purposes of subparagraph (1)(ii) of this paragraph, a payer corporation which as to the recipient corporation is not a related person as defined in section 954(d)(3) and paragraph (e) of § 1.954-1 shall be deemed to have satisfied the 80-percent gross income requirement if, on the basis of ascertainable facts, it is reasonable for the recipient corporation to believe that such requirement is satisfied.

(c) *Dividends*—(1) *In general.* Gross income derived by the foreign corporation from dividends, as defined in section 316 and the regulations thereunder, shall be treated as income from sources within less developed countries if, but only if, 80 percent or more of the gross income of the payer corporation for the 3-year period ending with the close of its annual accounting period in which such dividends are distributed, or for such part of such 3-year period as such corporation has been in existence, or for such part of such 3-year period as occurs on and after the beginning of such corporation's first annual accounting period beginning after December 31, 1962, whichever period is shortest, was derived from sources within less developed countries as determined in accordance with the principles of this section.

(2) *Payers other than related persons.* See paragraph (b)(3) of this section for rule governing satisfaction of the 80-percent gross income requirement by payers other than related persons.

(d) *Sale of tangible personal property*—

(1) *In general.* Income (whether in the form of profits, commissions, fees, interest, or otherwise) derived by the foreign corporation in connection with the sale of tangible personal property shall be treated as income from sources within less developed countries if, but only if—

(i) Such property is produced (within the meaning of subparagraph (2) of this paragraph) within less developed countries; or

(ii) Such property is sold for use, consumption, or disposition within less developed countries even though produced outside less developed countries

and the selling corporation is engaged within less developed countries, in connection with sales of such property, in continuous operational activities which are substantial in relation to such sales, as evidenced, for example, by the maintenance within less developed countries of a substantial sales or service organization or substantial facilities for the storage, handling, transportation, assembly, packaging, or servicing of such property.

(2) *Production defined.* For purposes of this paragraph, the term “produced” means manufactured, grown, extracted, or constructed and includes a substantial transformation of property purchased for resale or the manufacture of a product when purchased components constitute part of the property which is sold. See paragraph (a)(4)(ii) and (iii) of § 1.954-3 for a statement and illustration of the principles set forth in the preceding sentence.

[T.D. 6683, 28 FR 11183, Oct. 18, 1963, as amended by T.D. 6688, 28 FR 11632, Oct. 31, 1963]

**§ 1.955A-1 Shareholder's pro rata share of amount of previously excluded subpart F income withdrawn from investment in foreign base company shipping operations.**

(a) *In general.* Section 955 provides rules for determining the amount of a controlled foreign corporation's previously excluded subpart F income which is withdrawn for any taxable year beginning after December 31, 1975, from investment in foreign base company shipping operations. Pursuant to section 951(a)(1)(A)(iii) and the regulations thereunder, a United States shareholder of such controlled foreign corporation must include in his gross income his pro rata share of such amount as determined in accordance with paragraph (c) of this section.

(b) *Amount withdrawn by controlled foreign corporation—(1) In general.* For purposes of sections 951 through 964, the amount of a controlled foreign corporation's previously excluded subpart F income which is withdrawn for any taxable year from investment in foreign base company shipping operations is an amount equal to the decrease for such year in such corporation's qualified investments in foreign base com-

pany shipping operations. Such decrease is, except as provided in § 1.955A-4—

(i) An amount equal to the excess of the amount of its qualified investments in foreign base company shipping operations at the close of the preceding taxable year over the amount of its qualified investments in foreign base company shipping operations at the close of the taxable year, minus

(ii) The amount (if any) by which recognized losses on sales or exchanges by such corporation during the taxable year of qualified investments in foreign base company shipping operations exceed its recognized gains on sales or exchanges during such year of qualified investments in foreign base company shipping operations,

but only to the extent that the net amount so determined does not exceed the limitation determined under subparagraph (2) of this paragraph. See § 1.955A-2 for determining the amount of qualified investments in foreign base company shipping operations.

(2) *Limitation applicable in determining decreases—(i) In general.* The limitation referred to in subparagraph (i) of this paragraph for any taxable year of a controlled foreign corporation shall be the lesser of the following two limitations:

(A) The sum of (1) the controlled foreign corporation's earnings and profits (or deficit in earnings and profits) for the taxable year, computed as of the close of the taxable year without diminution by reason of any distribution made during the taxable year, (2) the sum of its earnings and profits (or deficits in earnings and profits) accumulated for prior taxable years beginning after December 31, 1975, and (3) the amount described in subparagraph (3) of this paragraph; or

(B) The sum of the amounts excluded under section 954(b)(2) (see subparagraph (4) of this paragraph) from the foreign base company income of such corporation for all prior taxable years beginning after December 31, 1975, minus the sum of the amounts (determined under this paragraph) of its previously excluded subpart F income withdrawn from investment in foreign base company shipping operations for all such prior taxable years.